

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

_____)	
IN RE: METOPROLOL SUCCINATE)	
END-PAYOR ANTITRUST)	
LITIGATION)	
)	
_____)	C. A. No. 06-71 (GMS)
)	
THIS DOCUMENT RELATES TO:)	
)	
ALL ACTIONS)	
_____)	

**DEFENDANTS' MOTION TO DISMISS THE
CONSOLIDATED CLASS ACTION COMPLAINT,
OR, IF THAT MOTION IS DENIED, TO STAY THIS ACTION**

Defendants hereby move to dismiss the consolidated class action complaint (D.I. 17 in C.A. No. 06-71 (GMS)) for failure to state a claim upon which relief can be granted. If the motion to dismiss is denied, defendants move to stay this action pending resolution of the underlying patent litigation. The grounds for this motion are set forth in defendants' opening brief, filed herewith.

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June 27, 2006

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CERTIFICATE PURSUANT TO RULE 7.1.1

I certify pursuant to D. Del. L.R. 7.1.1 that defendants' counsel conferred with lead and liaison counsel for the end-payor plaintiffs concerning the subject matter of the forgoing motion but were not able to reach agreement.

/s/ Karen Jacobs Louden

Karen Jacobs Louden (#2881)

June 27, 2006

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on June 27, 2006 I electronically filed the foregoing with the Clerk of the Court using CM/ECF which will send notification of such filing to Gary F. Taynor and A. Zachary Naylor.

I further certify that I caused that copies of the foregoing be served on the following counsel in the manner indicated:

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